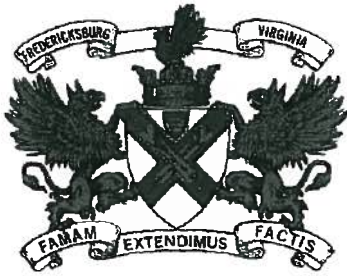


approved by
ARB 4-12-10



MINUTES ARCHITECTURAL REVIEW BOARD

March 8, 2010

7:30 P.M.

City Hall, Council Chambers
Fredericksburg, Virginia

MEMBERS

Robin Wood, Chair
Lisa Peverill, Vice Chair
Jamie Scully
Marilynn Mendell
Donna Chasen
J. Gordon Brown

MEMBERS ABSENT

Owen Lindauer

CITY STAFF

Erik Nelson, Senior Planner
Sheree Waddy, Recording Secretary

Ms. Wood called the Architectural Review Board to order at 7:30 p.m.

OPENING REMARKS

Ms. Wood determined that a quorum was present. Mr. Nelson stated that public notice requirements had been met.

APPROVAL OF AGENDA

Ms. Wood asked if there were additional items for the agenda.

Ms. Chasen made a motion to accept the agenda as submitted. Mr. Scully seconded. The motion carried unanimously.

REVIEW OF MINUTES

Ms. Wood asked if there were any changes to the January 11, 2010 meeting minutes.

Mr. Scully made a motion to accept the minutes as submitted. Ms. Chasen seconded. The motion carried unanimously.

DISCLOSURE OF EX PARTE COMMUNICATIONS

Ms. Wood asked if any board member had a conflict of interest or had participated in ex parte communications on any of the agenda items. No one said that they had.

APPLICATIONS – REGULAR AGENDA

1. 204 Fauquier (John M. Gulatsi) – Expansion of Shed

The applicant, John M. Gulatsi, was present. Mr. Gulatsi noted that he was considering downsizing the shed addition to 4x8 feet instead of 6x8 feet.

There was no public comment.

Ms. Peverill said she found the proposed expansion of the shed to be architecturally compatible with the historic aspects of the Historic District and made a motion to grant a Certificate of Appropriateness. Ms. Chasen seconded. The motion carried unanimously.

2. 312½ Wolfe Street (J&E Recycling) – Demolition

Mr. Nelson noted that the Board had previously requested documentation on the building's condition from a structural engineer or the Building Official. At this time no information has been received.

The applicant was not present.

There was no public comment.

Mr. Scully asked if the Board had the authority to restrict the cleared lot to residential infill if demolition is approved.

Mr. Nelson said no, zoning would dictate use.

Ms. Chasen made a motion to table the application until documentation on the condition of the building from a structural engineer or the Building Official has been received. Ms. Mendell seconded. The motion carried unanimously.

3. 905 Caroline Street (The Runway) - Sign

The applicant, Phillip Forsyth, was present.

There was no public comment.

Ms. Mendell said she found the proposed sign to be architecturally compatible with the historic aspects of the Historic District and made a motion to grant a Certificate of Appropriateness. Mr. Scully seconded. The motion carried unanimously.

4. 317 Dixon Street (Unique Davis) – Signs

The applicant was not present.

There was no public comment.

Mr. Brown asked if the window sign would be removed.

Mr. Nelson said the Board could make removal of the window sign a condition of approval.

Ms. Chasen said she found the exterior wall sign to be architecturally compatible with the historic aspects of the Historic District and made a motion to grant a Certificate of Appropriateness. The interior window signs were not included in this motion. Mr. Brown seconded. The motion carried unanimously.

5. 829 Caroline Street (Terry Thomann) – Signs

The applicant, Terry Thomann, was present.

There was no public comment.

Ms. Mendell said she found the proposed signs to be architecturally compatible with the historic aspects of the Historic District and made a motion to grant a Certificate of Appropriateness. Ms. Chasen seconded. The motion carried unanimously.

6. 307 William Street (Paul Cymrot) – Signs

The applicant, Paul Cymrot, was present. He noted the entire awning cover would be replaced, due to snow damage.

There was no public comment.

Mr. Scully said he found the proposed signs to be architecturally compatible with the historic aspects of the Historic District and made a motion to grant a Certificate of Appropriateness. Ms. Chasen seconded. The motion carried unanimously.

7. Las Palmas Café (Jeanette Reyes) – Signs

The applicant was not present.

There was no public comment.

Mr. Scully said he found the proposed signs to be architecturally compatible with the historic aspects of the Historic District and made a motion to grant a Certificate of Appropriateness. Ms. Chasen seconded. The motion carried unanimously.

8. 417 William Street (Kitty Waffle) – Signs

The applicant was not present.

There was no public comment.

Ms. Mendell said she found the proposed sign to be architecturally compatible with the historic aspects of the Historic District and made a motion to grant a Certificate of Appropriateness. Mr. Brown seconded. The motion carried unanimously.

9. 521-523 Sophia Street (Battlefield Industrial Park, LLC) – Exterior alterations

The applicant was represented by Lee Cherwek, Battlefield Industrial Park, LLC, 310 Central Road.

There was no public comment.

Ms. Mendell asked if the Board should consider the river a public right-of-way.

Mr. Nelson said no, the river was not considered part of the public view.

Mr. Brown asked if the new windows would be simulated or true divided light windows.

Mr. Cherwek said the windows were a Jeldwyn product with simulated divided light. He said the windows going in at 521 Sophia Street would be 2/2 windows and 523 Sophia Street would be 6/6 windows.

Mr. Brown asked Mr. Cherwek if they had considered placing the handicap ramp further back on the left hand side of the building.

Mr. Cherwek said that there are several different grade transitions on the left side of the building that would make it difficult to install the ramp in another location.

Mr. Brown asked Mr. Cherwek if he would agree to use simulated divided light windows.

Mr. Cherwek said yes.

Mr. Brown asked why the concrete would not be covered with siding.

Mr. Cherwek said they decided to leave the concrete exposed because it was part of the history of the building.

Ms. Chasen said she found the proposed exterior alterations to be architecturally compatible with the historic aspects of the Historic District and made a motion to grant a Certificate of Appropriateness with the condition that the new windows be simulated divided light. Ms. Peverill seconded. The motion carried unanimously.

10. City of Fredericksburg – Trailhead features related to the Virginia Central Railway Trail

The application was represented by Erik Nelson, Senior Planner.

Hamilton Palmer, 1500 Caroline Street, said that without an archaeological study available for review he did not see how the public could comment on this project.

Mr. Nelson explained that the archaeological investigation had occurred on National Park Service (NPS) property. The intent was to guide development of the portion of the trail that comes under the Hazel Run Bridge and then comes up to the level of Lafayette Boulevard. He said there is a mill in that area and the intent of the investigation was to determine whether the trail would interfere with the mill. The investigation determined there is no interference.

Mr. Palmer said that if the archaeological investigation showed no impact to the trail, why have a public hearing? In addition, if the investigation was required as a condition of the design of the trail it should be made available to the public.

Mr. Nelson said the structures related to the trail were being reviewed, not the trail itself. He said it was in the Board's purview to provide advisory comments to Council on items such as structures, trailheads, bridges, boardwalks, etc.

Jerry Bradshaw, Kingswood, Spotsylvania County, said his home backs to Idlewild, and a portion of the trail along Hazel Run. He said he was very excited about the project and wanted to get more information.

Ms. Mendell asked if the materials were available for public review.

Mr. Nelson said yes. He said he and Mr. Bradshaw had already spoken about this project and that the material was available to him.

Mr. Brown asked if anyone had considered that the horizontal rails appeared to be very climbable.

Mr. Nelson said he would make sure to pass that information along.

Mr. Scully noted that the Eagle Scout that worked on this project was Mason Mitchell.

Mr. Nelson commented that this trailhead was one of the best Eagle Scout projects the City has seen.

11. City of Fredericksburg – Trailhead features related to the Rappahannock River Heritage Trail

The application was represented by Erik Nelson, Senior Planner.

Hamilton Palmer, 1500 Caroline Street, said he lived close to some of the trailheads and was not in favor of using chain link fence. He said he did not agree with the security aspect of the chain link fence and believed that an alternative material more compatible with the bridge would be better suited.

Mr. Scully asked if Mr. Palmer had any suggestions for an alternative material.

Mr. Palmer said no. He suggested that staff post the material on the City's website. He indicated that he worked during the day and could not get to City Hall to review materials.

Gary Stanton, 816 Brompton, said that he had attended a public meeting on the evening of March 4 where staff provided the public ample opportunity to review this project in great detail.

Mr. Nelson explained that the chain link was chosen for security reasons.

Ms. Mendell asked what the precedent was for using chain link fencing on the trails.

Mr. Nelson reviewed the concepts of Crime Prevention Through Environmental Design (CPTED) and said that the fence was to be pointed black to provide protection while minimizing its visual presence.

Mr. Scully made a motion to table the application to allow the City to provide the Board with alternative choices for the fencing material. Mr. Brown seconded. The motion passed unanimously.

12. 240-242 Charles Street (James A. Scully) – Exterior alterations

The applicant, James A. Scully, stepped down from the Board to present his case. He said that the windows would be simulated divided light.

Mr. Brown asked why hardi-board was used for the siding.

Mr. Scully said he wanted something distinctly modern.

Ms. Mendell said she found the proposed exterior alterations to be architecturally compatible with the historic aspects of the Historic District and made a motion to grant a Certificate of Appropriateness. Ms. Chasen seconded. The motion carried unanimously.

Mr. Scully resumed his seat.

ADDITIONAL PUBLIC HEARING ITEM

Hamilton Palmer, 1500 Caroline Street, said he has a right to use the river. He said that he did not understand how the Rappahannock could not be considered a public right-of-way when it has been used for public commerce over the years. He said he is involved professionally with public rights-of-way and believed that any judicial decision would consider the river a public right-of-way. He said he would like to see the Board pose the question to the Attorney General. Mr. Palmer said there were pluses and minuses to the Board considering this question and he would like to see the Board err on the side of caution. He said he was inclined to think that all exterior alterations should be reviewed as a matter of fairness. If everything was reviewed, everyone would have the same rules.

Raymond Herlong, 1009 Prince Edward Street, commended the Board for holding a public hearing on the subject of visibility. He said he would also like to see a public comment time added to all ARB meetings. (Additional comments by Mr. Herlong attached).

Kenny Johnson, 1511 Princess Anne Street, said that the Board needed to take action to align the various sections of the ordinance. (Additional comments by Mr. Johnson attached.)

OTHER BUSINESS

1. Planning Commission Agenda – Mr. Nelson transmitted the Planning Commission agenda.
2. Alliance Review (NAPC) – Mr. Nelson transmitted the newsletter of the National Alliance of Preservation Commissions. He noted that the NAPC annual meeting was scheduled to be held in Grand Rapids, Michigan from August 29 – July 1, 2010.
3. Supplemental meeting – Mr. Nelson suggested that a supplemental meeting be scheduled for March 22nd to review public testimony related to the additional public hearing item on visibility. The Board agreed and set a meeting for March 22nd.

The meeting adjourned at 8:48 p.m.

Robin Wood, Chair

To ARB
March 8, 2010

First, I would like to commend the ARB for holding this public hearing and seeking the council of citizens. I hope that you consider modifying your hearing procedures to allow for a short public comment at every hearing. Most other city boards and commissions provide such an opportunity to encourage citizen participation, interest and understanding. You may find that it is a net gain.

The Historic District Handbook states, "In its 1972 Zoning Ordinance, Fredericksburg established its Historic District to actively guide the preservation of its historic character."

City Code Section 78-751 states that, "Regulations of the HFD are intended to protect, restore, and preserve the architectural integrity of existing structures..."

City Code Section 10-52 states the function of the ARB as passing "upon the appropriateness of any exterior construction, reconstruction, exterior addition or alteration, exterior restoration, razing, relocation, or demolition of any building or structure with the Historic District..."

Of course, as you know, that same section adds the following qualifier "... wherever the exterior features of such building or structure are visible from the public right-of-way."

I submit that, as qualified by the last statement, it is impossible for the Ordinance or the ARB to "guide preservation" or "preserve architectural integrity". In fact, taken to the extreme, by limiting the authority of the ARB to only that which is viewable from a public right-of-way, Fredericksburg could easily become Disenyesk. Street storefront facades with historical character, but a city with no preserved integrity.

I doubt that this was the intent of the original ordinance writers. Although we may never know the original intent, now is the time to strengthen the ordinance and protect city structures as the ordinance suggests. To preserve more than just visible storefronts.

The ARB understands the nature and value of historic preservation. Now is your opportunity to act to close a critical loop hole. Many property owners already preserve their complete historic properties, not just the facades. Lets encourage the remaining few to do likewise.

Please recommend that Council amend the ordinance to remove this damaging loop hole.

Raymond Herlong
1009 Prince Edward Street
Fredericksburg, Virginia

No matter what the board decides in reference to Matt Kelly's question, I think the board needs to take action to align their part of the code with the other parts.

Section 10-52 of the Fredericksburg Code which gives the powers & duties refers to section 18-32 and 513.1 of the Virginia Uniform Statewide Building Code. 10-52 also allows for government owned properties to be reviewed, as well as using the statement "visible from the public right-of-way".

I couldn't find a section 513.1 in the current or last version of the VUSBC. So I can only assume this is a reference to an obsolete version of the VUSBC. The Board should act to ensure that this provision is amended.

Section 18-32, as referenced in this section is found under the Code of Ordinances, Article II Building Code. This section specifically says View from any public street, right-of-way OR PLACE WITHIN THE OLD AND HISTORIC Fredericksburg zoning district.

This section appears to already designate that the ARB should be reviewing any elevation that can be seen from the Historic district already.

Section 18-32 also references Chapter 78, which is the section of the Code that the ARB typically operates under.

Under section 78-754 The wording does not match section 18-32, as you all are aware. It reads "Public street or right-of-way" and then adds "or from any city-owned property. . ."

This verbiage is used consistently in this section 78 of the Code.

Under section 78-755 the Code goes further in allowing the ARB to review any city owned, public utility or governmental entity, with no mention of sight lines or visibility requirements.

The question I feel the ARB should answer as they deliberate on this issue is which section of the Fredericksburg Code governs the other. It would appear to me that Section 10-52 establishes the City's ability to have an ARB, and points to the sections of the code that should be used. The Virginia Uniform Statewide Building Code reference is missing, but I would guess it most likely referred to the City's ability to inspect or enter a property for inspection. Section 18-32, the section Matt Kelly appears to reference, specifically states "any. . .place within the Historic District" which would expand the ARB's current review criteria. Chapter 78 itself also adds the review of governmental and public works projects, which is not reference in the other two sections I mentioned.

I would recommend that Chapter 78 be updated to match section 18-32 in verbiage. The governmental and public works review is covered by a separate section of Chapter 78 should remain as written.

No matter what the board decides, it is in its best interest to act to update the sections of the Code that appear to contain obsolete references and contradictory requirements.

RECEIVED

MAY 22 2003

Hertling Associates Inc.

ARTICLE I. IN GENERAL

Secs. 10-1—10-30. Reserved.

ARTICLE II. CITYWIDE BODIES

DIVISION 1. GENERALLY

Secs. 10-31—10-50. Reserved.

DIVISION 2. ARCHITECTURAL REVIEW BOARD*

Sec. 10-51. Creation.

The architectural review board (ARB) is hereby created.
(Code 1991, § 3-46)

Sec. 10-52. Powers and duties.

(a) The architectural review board is authorized and directed to carry out the following powers and duties:

- (1) Perform, pursuant to section 18-32, all duties specified in section 513.1 of the Virginia Uniform Statewide Building Code, as amended;
- (2) Implement and administer chapter 78, article III, division 23, which pertains to the Old and Historic Fredericksburg district. Based upon the criteria established in such division, it shall be the function of the architectural review board to pass upon the appropriateness of any exterior construction, reconstruction, exterior addition or alteration, exterior restoration, razing, relocation, or demolition of any building or structure within the Old and Historic Fredericksburg district, wherever the exterior features of such building or structure are visible from the public right-of-way; and
- (3) Provide advisory review regarding the appropriateness of any exterior construction, reconstruction, exterior addition or alteration, exterior restoration, razing, relocation, or demolition of any building or structure located in the city on property owned or occupied by the city or other governmental entity outside of the Old and Historic Fredericksburg district, whenever the exterior features of such building or structure are visible from any public street or right-of-way or from any city-owned property. The city manager shall submit plans and specifications for all such exterior improvements to the architectural review board for advisory review. The architectural review board

*Editor's note—After October 24, 1978, the board of historic buildings was known as the architectural review board.

State law reference—Historic sites and architectural areas review boards, Code of Virginia, § 15.2-2306.

may establish written guidelines for applications, public hearings, standards of appropriateness, and other necessary standards and procedures to implement the terms of this subsection (a)(3). The architectural review board shall promptly forward the results of such review, including all relevant supporting documentation, to the city manager and the city council for their consideration. ? ?

(b) In addition, the architectural review board is authorized to perform the following duties:

- (1) Survey and identify structures and areas within the city that are historically, archaeologically, or architecturally significant;
- (2) Make comments and recommendations to the planning commission and the city council regarding the comprehensive plan, zoning, subdivision, and other land use issues;
- (3) Undertake educational programs and activities; and
- (4) Accept funds, gifts, and donations from federal, state, and private sources to accomplish the functions listed in this subsection.

(Code 1991, § 3-47)

Sec. 10-53. Membership.

(a) The architectural review board shall consist of seven city residents appointed by the city council. The members shall meet the following criteria:

- (1) All members shall have a demonstrated interest, competence, or knowledge in historic preservation.
- (2) At least one member shall be a registered architect or an architectural historian.
- (3) At least one other member shall have professional training or equivalent experience in architecture, history, architectural history, archaeology, or planning.

(b) Vacancies on the board shall be filled within 60 days.

(c) Each member shall be appointed for a term of four years.

(Code 1991, § 3-48)

Sec. 10-54. Officers.

The architectural review board shall elect from its own membership a chair, vice-chair, and a secretary, who shall serve annual terms.

(Code 1991, § 3-49)

Sec. 10-55. Regular meetings; special meetings; quorum; rules of procedure.

(a) There shall be regular monthly meetings of the architectural review board, except that at the discretion of the chair a regular meeting may be cancelled if there is no business pending before the board and after inquiry of the other members there is no known new business to be presented.

#2

Code of Ordinances
City of Fredericksburg, Virginia

Article II. Building Code

Sec. 18-32. Permits and inspections in Old and Historic Fredericksburg zoning district.

(a) No permit required under this article shall be issued for any building or structure subject to view from any public street, right-of-way, or place within the Old and Historic Fredericksburg zoning district (HFD) until the zoning administrator has certified to the building official that such exterior alteration either does not require the issuance of a certificate of appropriateness pursuant to chapter 78, article III, division 23, or that such certificate has been issued by the architectural review board or, on appeal, by the city council.

(b) No final inspection involving a permit required under this article for any building or structure subject to view from any public street, right-of-way, or place within the HFD, or any certificate of occupancy for such building or structure, for which a certificate of appropriateness has been approved by the architectural review board or, on appeal, by the city council, shall be approved by the building official until the zoning administrator has inspected the exterior alterations covered by the permit or certificate of occupancy to determine whether they comply with the applicable provisions of the certificate of appropriateness.

(Code 1991, § 6-24)

portion of the official zoning map of the city consisting of a map entitled "City Fredericksburg, Virginia, Official Zoning Overlay Map, Old and Historic Fredericksburg District Boundary":

- a. The Stearns House: All that certain parcel of land located at 720 William Street, containing approximately 21,760 square feet, more or less, with all improvements thereon, and shown as Parcel 720 on City Tax Map No. 136.
- b. 1201 Washington Avenue (Kenmore): A distinctive Georgian mansion in an excellent state of preservation built by Fielding Lewis in the 1770s.
- c. 1302 Washington Avenue: A Colonial Revival wood frame dwelling constructed in 1907. This home has a simple gable roof and a variety of dentil work.
- d. 1304 Washington Avenue: A Colonial Revival brick home designed by the architect Philip N. Stern and constructed in 1910 by Frank Stearns.
- e. 1311 Washington Avenue: A Craftsman style house constructed in 1911. The architect was J. Philip Stern.
- f. 1500 Washington Avenue: A stone dwelling constructed in 1896 to serve as a caretaker's cottage for the recently completed Mary Washington Monument.
- g. Federal Hill: All that certain parcel of land located at 504 Hanover Street and containing approximately 2.15 acres, more or less, with all improvements thereon, and shown as Parcel 504 on City Tax Map No. 97.
- h. 620 Lewis Street: A two-story, stucco exterior dwelling constructed in 1928.
- i. 3315 Fall Hill Avenue: A distinctive Georgian mansion known as "Fall Hill," dating to circa 1779 and being in an excellent state of preservation, including the tract of land surrounding the mansion, consisting of 22 acres, more or less.

(c) The boundaries of the HFD, as set forth in this section and on the official zoning map of the city, shall also be delineated on the official tax maps of the city.

(Code 1991, § 14-587; Ord. No. 99-15, § III, 7-27-1999; Ord. No. 00-02, § III, 3-28-2000; Ord. No. 01-14, § III, 7-14-2001)

Sec. 78-753. Architectural review board established.

There shall be an architectural review board for the city. Such body shall have the duty to implement the provisions of this division, in accordance with the provisions of chapter 10, article II, division 2.

(Code 1991, § 14-589)

State law reference—Historical preservation, Code of Virginia, § 15.2-2306.

Sec. 78-754. Certificate of appropriateness required.

(a) *Construction or alteration of building or structure.* No building or structure subject to view from a public street or right-of-way or from any city-owned property shall be erected, reconstructed, altered or restored within the HFD unless the building or structure has been

approved by the architectural review board or, on appeal, by the city council, as being architecturally compatible with the historic landmarks, buildings, and structures in the HFD.

(b) *Demolition or moving of building or structure.* Except as otherwise provided in this division, no building, structure, or landmark within the HFD that is subject to view from a public street or right-of-way or from any city-owned property shall be razed, demolished, or moved until such razing, demolition, or moving has been approved by the architectural review board, or, on appeal, by the city council after consultation with such board.

(c) *Signs.* No sign, as defined in section 78-75, that is subject to view from a public street or right-of-way or from any city-owned property shall be erected, reconstructed, altered, or restored within the HFD unless the sign has been approved by the architectural review board or by the zoning administrator pursuant to section 78-764, or, on appeal, by the city council, as being architecturally compatible with the historic landmarks, buildings, and structures in the HFD.

(Code 1991, § 14-590)

Sec. 78-755. Structures on property owned or controlled by governmental entity or public utility company.

(a) To the maximum extent allowed by law, section 78-754 shall apply to any building, structure, landmark, or sign (as defined in sections 78-75) located in the HFD on property owned or controlled by the city, any public utility company, or other governmental entity; provided, however, that section 78-754 shall not apply to any sign erected by the city within the HFD.

(b) For purposes of this section, the term "public utility company" shall mean any person engaged in the business of providing electric, telecommunications, gas, cable television, or similar utility service to the public.

(c) For the proposed construction, alteration, renovation, or razing of any city building or structure, the city manager or other appropriate city official shall file an application for a certificate of appropriateness with the office of planning and community development and shall adhere to all other requirements of this division. For buildings and structures owned by other governmental entities or public utility companies, the city manager shall request that such owners submit an application for a certificate of appropriateness and adhere to all requirements of this division.

(Code 1991, § 14-590.1)

Sec. 78-756. Application for certificate of appropriateness.

(a) All applications for certificates of appropriateness shall be made to the office of planning and community development.

(b) The architectural review board or the community development coordinator may request any or all of the following information in order for the application to be deemed complete:

- (1) Statement of proposed use and user.

Code of Virginia (Referenced by 113 (1996) and 114 (2000) Uniform Virginia Statewide Code

§ 36-105. Enforcement of Code; appeals from decisions of local department; inspection of buildings; inspection warrants; inspection of elevators.

A. Enforcement generally. Enforcement of the provisions of the Building Code for construction and rehabilitation shall be the responsibility of the local building department. There shall be established within each local building department a local board of Building Code appeals whose composition, duties and responsibilities shall be prescribed in the Building Code. Appeals from the local building department concerning application of the Building Code or refusal to grant a modification to the provisions of the Building Code shall first lie to the local board of Building Code appeals. No appeal to the State Building Code Technical Review Board shall lie prior to a final determination by the local board of Building Code appeals. Whenever a county or a municipality does not have such a building department or board of Building Code appeals, the local governing body shall enter into an agreement with the local governing body of another county or municipality or with some other agency, or a state agency approved by the Department for such enforcement and appeals resulting therefrom. For the purposes of this section, towns with a population of less than 3,500 may elect to administer and enforce the Building Code; however, where the town does not elect to administer and enforce the Building Code, the county in which the town is situated shall administer and enforce the Building Code for the town. In the event such town is situated in two or more counties, those counties shall administer and enforce the Building Code for that portion of the town which is situated within their respective boundaries. Fees may be levied by the local governing body in order to defray the cost of such enforcement and appeals.

B. New construction. Any building or structure may be inspected at any time before completion, and shall not be deemed in compliance until approved by the inspecting authority. Where the construction cost is less than \$2,500, however, the inspection may, in the discretion of the inspecting authority, be waived. A building official may issue an annual permit for any construction regulated by the Building Code. The building official shall coordinate all reports of inspections for compliance with the Building Code, with inspections of fire and health officials delegated such authority, prior to issuance of an occupancy permit.

C. Existing buildings and structures.

1. Inspections and enforcement of the Building Code. The local governing body may also inspect and enforce the provisions of the Building Code for existing buildings and structures, whether occupied or not. Such inspection and enforcement shall be carried out by an agency or department designated by the local governing body.

2. Complaints by tenants. However, upon a finding by the local building department, following a complaint by a tenant of a residential dwelling unit that is the subject of such

complaint, that there may be a violation of the unsafe structures provisions of the Building Code, the local building department shall enforce such provisions.

3. Inspection warrants. If the local building department receives a complaint that a violation of the Building Code exists that is an immediate and imminent threat to the health or safety of the owner, tenant, or occupants of any building or structure, or the owner, occupant, or tenant of any nearby building or structure, and the owner, occupant, or tenant of the building or structure that is the subject of the complaint has refused to allow the local building official or his agent to have access to the subject building or structure, the local building official or his agent may present sworn testimony to a magistrate or a court of competent jurisdiction and request that the magistrate or court grant the local building official or his agent an inspection warrant to enable the building official or his agent to enter the subject building or structure for the purpose of determining whether violations of the Building Code exist. The local building official or his agent shall make a reasonable effort to obtain consent from the owner, occupant, or tenant of the subject building or structure prior to seeking the issuance of an inspection warrant under this section.

4. Transfer of ownership. If the local building department has initiated an enforcement action against the owner of a building or structure and such owner subsequently transfers the ownership of the building or structure to an entity in which the owner holds an ownership interest greater than 50%, the pending enforcement action shall continue to be enforced against the owner.

5. Elevator, escalator, or related conveyance inspections. The local governing body shall, however, inspect and enforce the Building Code for elevators, escalators, or related conveyances, except for elevators in single- and two-family homes and townhouses. Such inspection shall be carried out by an agency or department designated by the local governing body.

(1972, c. 829; 1974, c. 433; 1977, cc. 423, 613; 1978, c. 578; 1981, c. 498; 1982, c. 267; 1992, c. 73; 1993, c. 328; 1994, cc. 214, 256, 574; 1995, cc. 95, 523, 702, 827; 1999, cc. 333, 341; 2001, c. 119; 2002, c. 720; 2003, c. 650; 2004, c. 851; 2006, c. 424; 2007, c. 291; 2009, cc. 181, 184, 551, 586.)